

USAID/MACEDONIA JUDICIAL STRENGTHENING PROJECT (JSP)

MONTHLY REPORT: October 2013

November 6, 2013

This publication was produced for review by the United States Agency for International Development. It was prepared by Tetra Tech DPK.

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I. PROGRAM-RELATED ACTIVITIES AND TASKS

I. RESULT I: STRENGTHENING ADVOCACY AND CITIZEN PARTICIPATION IN JUDICIAL SECTOR REFORM

I.I Requirement I.I: A Short, Focused Assessment, Baseline Survey, and Resulting Action Plan on Justice Sector LPAs and CSOs, and the Role they can Play in Strengthening the Rule of Law in Macedonia

The Judicial Strengthening Project (JSP) previously completed the short, focused initial assessment of the needs of 11 legal professional associations (LPAs) and civil society organizations (CSOs), through a subcontractor: the Macedonian Center for Institutional Development (CIRa). Based on the assessment, JSP selected three organizations for Phase II of the assessment: The Macedonian Judges Association (MJA), The Macedonian Young Lawyers Association (MYLA), and The Court Administration Association (CAA).

In Phase II, CIRa assessed the performance of the three selected organizations to identify performance gaps and recommend training and technical assistance packages customized to each organization. Phase III commenced in October 2012. The activities and events for this reporting period are described below.

1.2 Requirement 1.2: Per the Findings of Requirement 1.1, the Capacity of at Least Two Judicial Sector Professional Associations are Improved

The JSP proceeded with the implementation of Phase III, which commenced in October 2012. Phase III activities included a series of training workshops -to be implemented by JSP subcontractor Mesacons/Embra- to enhance the capacity of the selected organizations. The project supported a total of 31 trainings/workshops between October 31, 2012 and October 25, 2013¹. A number of these trainings were jointly conducted to reach several organizations simultaneously.

On July 22, JSP signed a modification agreement with Mesacons/Embra memorializing the agreement to include several additional LPAs in the trainings/workshops due to MJA's previous withdrawal from the scheduled programs.

Trainings and Workshops for October 2013

No	Training Event	Date	Counterparts	No .of Trained People	Male	Female	Result require- ment
I.	Training on "Human Resource and Volunteer Management" for MYLA & CAA	October 3-4, 2013	MYLA & CAA	17	13	4	Result 1.2
2.	Training on "Developing Financial Management and	October 15- 16, 2013	CAA	12	9	3	Result 1.2

¹ The final training took place during October 24 and 25, 2013

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	Sustainability Plans" for CAA						
3.	Training on "Financial Management for Non – financial personnel" for CAA and others	October 24- 25, 2013	CAA	14	5	9	Result 1.2

The final report of Mesecons/Embra is due in early November and is required to include baselines for two of three original target organizations, the CAA and MYLA. Throughout the next year, the JSP team will monitor the progress and growth of the organizations and compare it against their baselines.

As will be reported in detail later in this report, plans are underway to put the NGO's trainings into action with contractor Kaizen Group, an international expert in implementing NGO and CSO activities.

I.2.1 Other Support for LPAs Macedonian Judges Association

During September and October, coordination and planning meetings were conducted with Judge Nikolco Nikolovski, president of the MJA. Primarily the meetings were devoted to the planning of an MJA event to be supported by JSP. The event entitled "Roundtable on Court Proceedings and Court Efficiency" is scheduled for November 7.

Macedonian Young Lawyers Association

The MYLA is an LPA that provides continuing legal education for young lawyers and works to promote and advance the legal profession in Macedonia. Additionally, the MYLA promotes access to public information and supports the establishment of a free legal aid system.

The organization was one of the organizations targeted for the capacity building trainings and it concluded its final training on October 3 and 4 on the subject of Financial Management for Non-Judicial Personnel. From November 2, 2012 to October 4, 2013, MYLA participated in 14 such trainings/workshops.

The JSP's Deputy Chief of Party (DCOP) continued discussions with MYLA officers in preparation for the advanced trainings and workshops scheduled for December 2013 and February 2014 to be implemented by the US consulting firm Kaizen. These two one-week events will give MYLA and other organizations the ability to put into actual practice the important lessons from the previous year's trainings. These discussions also encompassed the development of the broad-based coalition with other NGOs and a CSO to act as a watchdog in the area of the judiciary. The idea of forming a broad-based coalition was conceived after the first study tour to Sweden and Estonia for seven members of All For Fair Trials (AFFT), MYLA, CAA and ELSA and is modeled after a NENO, Estonian broad-based organization of justice sector NGOs.

European Law Students Association

The project's ICT coordinator and the project attorney worked with European Law Students' Association (ELSA) officers in planning a revision to the ELSA website. The final configuration of the webpage will have two sectors. The first will be designed for public use and will contain general information, activities and contact information. The second sector will be designed for

access only by members in good standing. As previously reported, it will provide an array of information for members and non-members and will include links and helpful tools for members.

The final technical specifications were concluded at a planning session on October 4. However, since JSP is also working with the Macedonian Bar Association (MBA) on the enhancement of its website, it was decided to postpone the procurement process until completion of the technical specifications of the MBA website to include the enhancement of both websites under a single procurement process.

As part of the Action Plan resulting from the first study tour to Sweden and Estonia in which ELSA participated, AFFTs conducted training for 20 ELSA fourth and fifth year law students on the skills and process used to effectively monitor court cases for fairness, transparency and expediency. The training was conducted on October 18.

The JSP supported ELSA's efforts to enhance public information and education through the publication of two brochures. The first brochure was designed for civic education of high school level students to help them understand the structure of government, the courts, and the legal process.

The second brochure entitled Juvenile Justice System—Prevention Instead of Punishing was designed to provide an overview of the system for juvenile justice in the Republic of Macedonia, with an emphasis on prevention instead of punishment. The brochure is targeted to ELSA members, courts, high school students and other interested institutions and associations. On October 25, the project staff coordinated with ELSA and the Basic Court (BC) Kavadarci in the planning of the debut presentation and distribution of the publication at the court. Additional presentations are planned throughout year 3 of the project.

As the organization has done in the past, ELSA volunteered to provide interns to assist the JSP staff with the organization of training programs such as the Court Couriers on October 16 and Mediation and Arbitration on October 28 and 29. ELSA will also provide interns to support the upcoming program coordinated with the MJA on November 7.

Public Prosecutors Association

During October, JSP continued cooperation with the Public Prosecutors Association (PPA) assisting with the creation of a website and newsletter. A draft of the brochure prepared by PPA members and staff is being edited with the assistance of JSP. The assistance with the website is now complete.

Macedonian Bar Association

The MBA is an autonomous and independent public service organization, which provides legal assistance according to the Law on the Bar and other regulations. The MBA recently elected a new president and board members and the new administration is genuinely interested in JSP support.

Several topics of cooperation between the MBA and JSP were discussed at a meeting on September 3. As result of that meeting, the JSP began assistance to the MBA by agreeing to support the revitalization of its website. The process began in October and will continue under the guidance of the JSP ICT and logistical coordinator. After the technical specifications are agreed upon, JSP will assist in a public tender for a vendor to implement the specifications for the MBA as well as ELSA as described earlier in this report.

Chamber of Enforcement Agents

The Chamber of Enforcement Agents (Chamber) oversees the actions of enforcement agents throughout Macedonia, acts on ethics complaints and works towards enhancing the image and reputation of the profession. The Chamber requested that the project support training for its members geared towards building good *rapport* and communication with the media. The object is to more fully inform the public of the work and procedures of enforcement agents and to strengthen the image of the profession and its important role in society. The project supported the event held by the Chamber on October 25 and 27 by providing for the attendance of 13 journalists for training at this event. The objective was for each group to understand each other's responsibilities, practices and challenges.

1.2.2 Building Broad-Based Coalition of LPAs

The project is supporting the creation of the coalition by coordinating with the major actors and supplying them with materials, documents and advice. In addition to the drafts of the paperwork required to formally create the coalition, the MYLA submitted for JSP review and comment a draft code of ethics for the organization.

JSP has agreed to a proposed Scope of Work (SOW) with the Kaizen Group, which is a US company specializing in building and strengthening civil society advocacy and participation in government including the judicial sector. The Tetra Tech DPK home office staff continues to work with officials of Kaizen toward the implementation of a program in December that will bring Kaizen representatives to Macedonia for a one week assessment of the broad-based coalition's needs. This will be followed by a return trip during February to implant solid plans for the coalition's mission to become activists and advocates for an independent judiciary and the rule of law in Macedonia.

2. RESULT 2: MORE INDEPENDENT, EFFICIENT, AND CONSISTENT APPLICATION OF JUDICIAL POLICIES AND PRACTICES

2.1 Requirement 2.1: Legal Framework and Judicial Branch Policies Strengthen Independence, Effectiveness, and Accountability of the Judicial System

2.1.1 Review and Advocacy of Laws by the Judiciary Judicial Branch Forum Follow-up

The Judicial Branch Forum provides an opportunity for the leaders of judicial branch institutions and associations to discuss the progress, current status and next steps in the implementation of the judicial reforms in Macedonia. These topics are important to the ultimate achievement of the reform goals: (i.e., establishment of the judiciary as a fully independent, effective and self-governed branch of government capable of upholding the rule of law and providing timely and quality services to all citizens of the Republic of Macedonia).

The fourth Forum was held on October 17 and 18. There were six conclusions reached by a consensus of those present:

- 1. The courts will prepare 2 reports one for the performance of the judges, and one for the performance of the court.
- The Automated Court Case Management Information System (ACCMIS) database is the main and sole source of data for the reports that the courts submit to the Judicial Council, the Ministry of Justice and the Supreme Court. For a unified and quality database, it is paramount to introduce central nomenclatures at the Supreme Court level.

- 3. The ICT Center at the Supreme Court is to request that the company that maintains the servers submits an offer for a vertical link of the courts. The dataflow from the basic to the appellate courts, and accordingly to the Supreme Court, will vastly accelerate the movement of cases, thus decreasing the possibility for errors in the registration of the parties information.
- 4. After the Supreme Court adopts their Court Book of Rules, it will submit a formal request to all courts, specifying the data that the annual report of the courts should contain.
- 5. The ICT representatives of the Supreme Court will forward to the president of the Supreme Court the suggestion for forming a smaller working group that will follow amendments to the laws, suggest new nomenclatures and maintain the court statistics database. This working group could be independent, or as a part of the ACCMIS Working Committee.
- 6. A working group formed by the Macedonian Judges Association (MJA), in cooperation with the Judicial Council is to prepare a second draft version of the Code for Judicial Ethics. This version will include the recommendations of GRECO, the Commission for Anti-corruption and comparative documents of the Judicial Codes of Ethics of Great Britain, California and New York State. The JSP will procure those documents and submit them to the MJA along with relevant opinions of the advisory bodies in these states. The second draft version will be submitted to all MJA Branch Offices for input and comments, and shall be on the agenda of the Fifth Judicial Branch Forum in February, 2014.

A letter thanking the participants for attending was sent along with these conclusions. Copies also went to members unable to attend.

Harmonization of Decisions of Appellate Regions

Part of the project's ongoing cooperation and assistance to the Judicial Training Academy is the support of a leadership team for the harmonization of court decisions. The group, which comprises the four appellate region president judges and heads of departments, meets quarterly to discuss and harmonize important decisions. There was a meeting scheduled for October 3 but, at the request of the Academy, it has been reprogramed for December 6 due to schedule conflicts of a number of participants.

2.2 Requirement 2.2: Administration and Management Rules, Policies and Procedures, and Systems and Practices to Support a Modern Court System

2.2.1 Development of Job Descriptions

As previously reported, the JSP has supported working groups to enhance and create job descriptions for certain employment areas. As a result of these endeavors there are now three new draft job descriptions covering IT staff and public information officers in the courts. As a result of a coordination meeting with the president of the Court Service Council (CSC) on October 24, the project is in the process of conveying these documents to the CSC for formal approval and implementation. The transmittal will take place during the first week in November.

2.2.2 Strategic Plan for the Judiciary

In consultation with the Judicial Council president, it was agreed that JSP would support an updated version of the Strategic Plan for the Judiciary of Macedonia. The previous judicial plan ran from 2010 to 2012 and is therefore obsolete. The project has issued an RFP to solicit a Macedonian firm to prepare a three year strategic plan. The proposals are due by COB on

November 4. After an evaluation by JSP staff and selection of a vendor, the initiative will begin and be completed on or before January 31.

3. RESULT 3: INCREASED FAIRNESS AND EFFICIENCY OF THE ADMINISTRATION OF JUSTICE THROUGH MORE EFFECTIVE LEGAL PERSONNEL AND EFFICIENT PROCESSES

3.1 Requirement 3.1: Develop and Implement Targeted Specialized Training for Judges, Court Administrators, Executives and Court Staff

3.1.1 Training on Mediation and Arbitration

The JSP reaffirmed its commitment with the Academy to support a training entitled "Mediation and Arbitration" for commercial judges. Judges Arem and Punt from the Netherlands conducted training on October 28 and 29. The topics included:

- What is mediation?
- Harvard method of negotiating
- Listening, summarizing and follow through questions (Paraphrasing/mirroring)
- Active listening
- Moving from positions to interests
- Levels of communication
- Feedback rules
- Conflict styles
- Reframing: cleaning up foul language
- What can be learned from Arbitration (proceedings)?

Thirty-seven participants attended the training, including 25 women and 12 men. The group of participants included judges, judge assistants, lawyer-members of the Macedonian Bar Association, mediators, and representatives of business chambers.

3.1.2 Study Tour II for Court Administrators and Court Staff

The second JSP study tour took place from September 23 to October 3 and focused on increasing the capacities and skills of the court administrators and court staff. The program stressed coordination and communication among various justice sector actors and institutions in order to strengthen judicial independence and foster more effective and accountable court operations. Areas of focus included court administration and management, budgeting and finance, case flow management, backlog reduction, human resources, court facilities, information communication technology and archiving. At a meeting on October 24, JSP staff assisted the participants in developing an Action Plan from the information gleaned from the study tour. These items were a distillation of a preliminary action plan developed while on the tour. The details of the Action Plan, to date, are set forth in Attachment A.

3.2 Requirement 3.2: Improve Caseload Processing and Reduce Backlog of Cases

3.2.1 Court Proceedings and Court Efficiency

As described above, JSP has agreed to support a "Roundtable on Court Proceedings and Court Efficiency". The project has developed a list of participants and a draft agenda in cooperation with the MJA. The event will take place on November 7.

3.2.2 Support for Judicial Sector Automation

Electronic Digital Recording of Court Hearings and Trials

The JSP has provided support for an "in-house" Electronic Court Recording (ECR) consultant at BC Skopje II due to the court's workload which includes certain high-profile cases from the entire country. The recruitment and approval process to hire the ECR consultant took place during September. After a screening and interview process, the consultant was selected to fill this position. After an initial one month pro-bono service, a one year contract was signed with this expert and commenced on October 14. The court and its judges will benefit from the presence and assistance of this consultant who will support full utilization of the ECR Femida software and hardware. He will coordinate and provide continuous "in-house" training and daily support to the users of ECR.

At this point in the evolution of electronic recording of court hearings, additional training is necessary in some venues. Technical assistance and training to judges and typists will enhance the use and positive results of the system. The project will support additional training on an "asneeded" basis in the courts and during actual hearings. JSP has agreed during this reporting period to supply a trainer for this purpose.

Upgrade of Automated Budget Management System

The Court Budget Council (CBC) requested an upgrade of the Automated Budget Management System (ABMS) due to a number of changes in the laws and sub-regulations norming judicial budgeting, finance and human resources. The project addressed the issue through a sole source contract with the original vendor. A contract with Ultra was signed in early October and the upgrade will be completed on or before November 15. The vendor, Ultra, will assist the personnel of the Administrative Office (AO) of the CBC in applying the installed upgrades, which is scheduled to be accomplished no later than December 15, 2013.

3.2.3 Coordination Meetings President of the Judicial Council

The JSP Chief of Party (COP) and the DCOP continued regular communications with the president of the Judicial Council (JC) to coordinate project efforts with JC and the CBC in various areas. JC President Judge Zafiroska has approved the preparation of an updated Strategic Plan and the project has issued a request for proposals (RFP) to complete this work.

Meeting with President of the MJA

During October the JSP DCOP discussed with the MJA president the ongoing planning of the November 7 event, --the roundtable "Court Proceedings and Court Efficiency". A preliminary agenda was prepared, and invitations sent to the potential participants on October 29.

Meetings with President of the Court Service Council

On October 24 the DCOP and court administration coordinator met with the president of the CSC and the president of the CAA to discuss a number of issues involving court administration and staff. Jointly they have asked for the following support:

- A two-day workshop for 15 CSC members (including old and new members), on December 20-21, 2013. CSC submitted a proposed Agenda to JSP, which includes: review of the CSC operation and achieved results; the role of the CSC in the hiring, dismissal and disciplinary procedures of court employees; Rules of Procedures for the CSC; organizational setting, communication, decision-making; etc. This workshop aims to mark the 5-year existence of the CSC and strategize future activities with new council members.
- Two workshops for drafting and finalizing changes and amendments to the Law on Court Service (LCS).

- Support for the Fifth Annual Assembly of the CAA (May 2014), at which a new president of the CAA will be elected. Organize a joint event/workshop/roundtable at the CAA Annual Assembly.
- Support for the participation of one member of the CAA at the next IACA Conference, on December 9th, in Dubai.
- One training for the staff of the courts' Public Relations offices.

The CAA president raised the issue of motivation of court employees, since all the provisions of the LCS pertaining to the promotion and hiring through internal announcement are not being utilized. JSP suggested that CAA propose possible ideas and solutions. Based on proposals, JSP will consider whether and where possible assistance could be provided in this regard.

All of the suggested items will be considered by JSP staff and the COR to be added, where appropriate, to future activities.

II. PROBLEMS AND REMEDIAL ACTIONS

Problems have been minimal and are of the type to be expected in the regular course of implementation.

III. ADMINISTRATIVE MATTERS

On November 14, the COP, Joseph Traficanti, will complete his full-time assignment with JSP. Nena Ivanovska, the DCOP, will assume the COP position the next day. As planned, a local person will be hired to assist the new COP. A job description will be prepared and a posting made to fill the position

IV. SUMMARY OF ACTIVITIES PLANNED FOR NOVEMBER 2013

The summary of activities planned for November 2013 is as follows:

- Oversee and manage the end of the capacity development program with Embra, reviewing the final report and work with Embra to finalize indicators for two remaining targeted organizations, CAA and MYLA
- Continue coordination and planning with the Academy for future events and activities for JSP's third year beginning on November 23
- Planning for Harmonization of Court Decisions meeting on December 6
- Continue to accumulate statistical data on case filings, dispositions, and backlogs by court and case type to support Staffing Guidelines and case management initiatives
- At the request of the CBC, re-establish the working group for the next phase of the implementation of staffing guidelines and conduct a first meeting
- Follow-up with participants of the second study tour, finalizing Action Plan and assisting in implementation, where appropriate and agreed upon
- Organize Public Discussion on "Court Proceedings and Court Efficiency" in conjunction with the MJA scheduled for November 7
- Preparation and Planning for a program on Commercial Law to be sponsored with the Academy and scheduled for November 15.
- Plan with ELSA to promote its *Juvenile Justice* publication in more venues
- Assist in the development phase of a newly designed ELSA website with both public and membership access
- Support ELSA in organizing Regional Conference on "Fight against human trafficking-stop on modern slavery", scheduled for November21-24,2013

- Support MBA by assisting in the preparation of technical specifications for a revised website and issue RFP for a vendor for MBA and ELSA websites
- Continue support of student visits to courts and distribution of ELSA publications integrating people with disabilities and orphans
- Continue the oversight of the implementation of electronic recording of court hearings including supporting the work of support coordinator retained for Skopje II
- Support future as-needed training in court venues by providing trainer
- Follow progress in implementation of the Action Plans of CAA, ELSA, MLA, AFFT and MYLA as part of the recent study tour objectives including formation of a broad-based coalition and training by US based expert –Kaizen Group
- Continue support of the publication of the brochure for the Association of Public Prosecutors (APP)
- Oversee and manage contract for the upgrade of ABMS for the CBC
- Support the preparation of a Three Year Strategic Plan for the Judiciary by selecting a vendor through the public procurement process, entering into contract and monitoring activities

Attachment A

Action Plans of the Study Tour in the Netherlands and Slovenia

September 23-October 3, 2013

Group Action Plan

Goal: To apply new methods and strategies for openness and transparency of the courts

Strategy: Unification of the courts' operations, establishing procedures for the IT operations of the courts' house rules.

Activities:

- 1) Creation of a team of IT personnel, court administrators and judges;
- 2) Process mapping of the IT operations of the courts;
- 3) Process mapping of the courts' house rules;
- 4) Adoption and implementation of the processes for the IT operations of the courts and courts' house rules; and
- 5) Monitoring and continuous education regarding the adopted processes and house rules.

Individual Action Plans of the participants

- 1. Education and transfer of knowledge and skills in more efficient ways (introducing elearning).
- 2. More efficient court management through developing a system for making management decisions based on analysis.
- 3. More efficient execution of criminal sanctions, with the focus on the fines, in coordination with the Agency for Enforcement of Sanctions; make arguments for new solutions and propose changes to the relevant laws.
- 4. Introducing mandatory continuous education for the court staff, with the focus on the EU law, by proposing changes to the LCS.
- 5. Creation of courts Wikipedia for unification of the courts practice.
- 6. Increasing the transparency of the work of the courts by re-organization of the courts' PR offices equipping and increasing their capacities, information of the public on a regular basis and continuous up-grade and update of the courts' web-sites; developing concrete outreach activities for informing the public.
- 7. Adoption of a strategy for applying internationally recognized standards for employment, system of salaries and promotion of court employees.

8. The Commission for Prevention of Corruption to monitor the history of the financial condition of the judges and court employees.

Goals and strategies related to the budget and the AO of the CBC

- 9. Preparation of annual report for the realization of the court budget.
- 10. Establishing new organizational structure of the AO of CBC, based on the needs of the courts.
- 11. Measuring the citizens' satisfaction of the work of the courts.

Goals and strategies related to the Information Technology of the courts

- 12. Establishing connection among the courts of I, II and III instance to transfer the electronic case docket, by making the necessary upgrade in ACCMIS.
- 13. Creation of central data-warehouse, including data from ACCMIS and ABMS, which would enable creation of quality reports needed for successful management of the courts.
- 14. Creation of department for analysis and statistics at appellate court level, which will collect and analyze data from the courts of first instance.
- 15. Strong coordination among the courts' IT personnel, by creation of IT body, appointing IT leader, and having regular monthly coordination meetings for solving day-to-day problems and implementation of new ideas in the IT sector.
- 16. Improving the organizational structure of the IT sector in the courts, by defining positions, roles and functionalities, establishing organizational units (departments, sectors), and introducing strategies and policies for the IT operations.
- 17. Improving the IT technology of the courts, by following the trends in the IT sector, purchase and installation.